

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

ELLOYD JOHNSON
PETITIONER

JAN 04 2019

v.

BY
DEPUTY

CIVIL ACTION NO. 9:18-CV-85

LORIE DAVIS, DIR, TDCJ-CIO
RESPONDENT.

AMENDED PETITION TO § 2254 BY ORDER
OF MAGISTRATE

PETITIONER MOVES INCOMPLIANCE WITH THE MAGISTRATE'S ORDER TO AMEND THE § 2254 ON ISSUES (1) AND (2) QUESTIONS AT THE ADMINISTRATIVE LEVEL IN RELATION TO PETITION WITH MORE DETAIL, .. WITH INFORMA PAUPERIS GRANTING,

BRIEF HISTORY OF CLAIMS

PRISON OFFICIALS INTENTIONALLY DENIED PETITIONER A OPPORTUNITY TO ATTEND DISCIPLINARY HEARING ON NOV. 29, 2017.. PRIOR TO SUCH DATE ON NOV. 27, 2017 THE SUBSTITUTE COUNSEL CONDUCTED THE PRINTOUT, WHERE PETITIONER STATED YES, HE "WANT TO ATTEND THE HEARING". THEN COUNSEL SUBSTITUTE ASK "HOW DO YOU PLEAD?" PETITIONER ASK COUNSEL SUBSTITUTE "WHY ARE YOU ASKING HOW I PLEAD, WHEN I JUST INFORM YOU YES, I WANT TO ATTEND THE .. HEARING?" SUBSTITUTE COUNSEL RESPONDED BY SAYING, "GET YOUR A-- OUT OF HERE!" THIS WAS THE ONLY ATTENDANCE ALLOWED, 2 DAYS BEFORE THE DISCIPLINARY HEARING.

LEGAL ANALYSIS

CONSTITUTIONAL RIGHT DURING DISCIPLINARY PROCEDURE PROCESS

COUNSEL SUBSTITUTE SUBVERSIVE ACT VIOLATED PROCEDURE WHERE AT THE OFFENDER NOTIFICATION THE WORD YES WAS LATER XED OUT AND THE WORD NO WAS SUBVERSIVELY CIRCLED. THE DOCUMENT ALSO SHOWS THE HEARING INFORMATION (2) DAYS LATER ON NOV. 29, 2017 THE DHO CIRCLED (3) .. WHERE "IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE?" AND NOT.. THE HEARING STAGE?.. THE DHO WRITES TO SUPPORT "A WAIVED-ATTENDANCE"? WITH NO RECORDS OF PRESENTS OF PETITIONER DURING THE START OR ENDING OF THE DISCIPLINARY HEARING.? NOTICE THE "HEARING LENGTH MINUTES" ARE ONLY 3 MIN. 33 SECONDS?.. AT NO TIME DO SECURITY STAFF ON 8-BLDG J-PDD INFORM PETITIONER THAT PETITIONER'S DISCIPLINARY HEARING WAS IN PROCESS OR A LAY-IN WAS PREVIOUSLY PROVIDED TO PETITIONER.

PRIISON OFFICIALS HAS A HISTORY OF VIOLATING THIS CONSTITUTIONAL RIGHT TO ATTEND... DISCIPLINARY HEARINGS AT THE ENHANCEABLE METHOD TO HAVE THE NEXT LEVEL 2 OR 3.. OFFENSE TO BE MAJOR.. GRIEVANCE NO. 2D19007654 STEP 1 AND 2 ; GRIEVANCE NO. 2D19004103 STEP 1 AND 2 AND GRIEVANCE NO. 2D19002155 STEP 1 AND STEP 2.

UNDER THE DATES AND ACTIONS ORDERED BY THE MAGISTRATE THE SUPRA GROUNDS WAS IN FACT RAISED ON ADMINISTRATIVE APPEALS THAT WAS ILLEGALLY CONFISCATED THROUGH UNIT .. SHAKEDOWN POLICY.

PETITIONER WISH FOR MAGISTRATE TO REVIEW GROUNDS A AND C ON THE FORM.

CONSTITUTIONAL LEGAL ANALYSIS

PETITIONER'S RIGHT TO BE HEARD WAS IN FACT VIOLATED AT THE DISCRETION OF PRISON.. OFFICIALS SECURITY STAFF AND ADMINISTRATIVE PERSONAL WHEN "DUE PROCESS PROTECTIONS REQUIRE PRISONERS BE FREE OF ARBITRARY AND PURPOSELESS USE OF AUTHORITY)" SEE HANRAHAN V. LANE, 747 F.2d 1140 (7TH CIR. 1984) (PER CURIAM).
DUE PROCESS PROTECTION REQUIRE CIVILLY COMMITTED OFFENDERS BE GIVEN NOTICE AND THE

OPPORTUNITY TO BE HEARD BEFORE BEING DEPRIVED OF PRIVILEGES) SEE HYDRICK V. HUNTER 466 F.3d 676, 679 (9TH CIR. 2006). (DUE PROCESS REQUIRE HEARING BEFORE REMOVING A . . . PROVIDED LIBERTY INTEREST) SEE CHAMBERS V. COLO. DEPT. OF CORR., 205 F.3d 1237, 1242 (10TH CIR. 2000). (DUE PROCESS PROTECTION REQUIRE PRISONERS NOT BE SUBJECTED TO . . . "ARBITRARY DEPRIVATIONS OF 'LIBERTY'" DESPITE PRISON OFFICIAL'S INTEREST IN DISCRETION AND FLEXIBILITY) SEE HATCH V. D.C. 184 F.3d 846, 849 (D.C. CIR. 1999).

UNDER THE SUPRA PETITIONER SHOWS PRISON OFFICIALS INTERFERED WITH LIBERTY INTEREST THAT DEPRIVED PROCEDURAL WAS CONSTITUTIONALLY INSUFFICIENT) SEE COLEMAN V. DRETKE 395 F.3d 216, 221 (5TH CIR. 2004) SATISFIED.

CONCLUSION

FOR THE FOREGOING REASONS SET OUT IN THIS "AMENDED PETITION TO § 2254 BY ORDER OF MAGISTRATE" ASK THIS HONORABLE MAGISTRATE TO GRANT RELIEF SOUGHT SUA SPONTE.



PETITIONER- PRO SE - PAUPER

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

OFFICE OF THE CLERK

DEC. 28, 2018

HONORABLE UNITED STATES DISTRICT COURT, EASTERN DISTRICT, DAVID O'TOOLE, CLERK,

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS

104 N. THIRD STREET

LUFKIN, TEXAS 75901

RE: ELLYD JOHNSON V. LORIE DAVIS, DIR. TDCJ-CID
CIVIL ACTION NO. 9:18-CV-85

DEAR MR. O'TOOLE:

ENCLOSED FOR FILING IS PETITIONER'S "AMENDED PETITION TO § 2254 BY ORDER
OF MAGISTRATE"

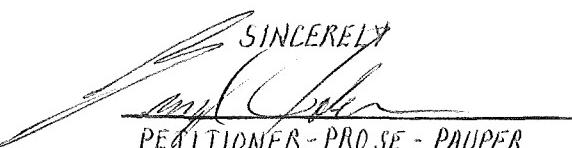
PLEASE GIVE NOTICE UPON RECEIPT.

THANK YOU RESPECTFULLY FOR YOUR ASSISTANCE.

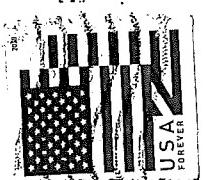
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EJ

SINCERELY


PETITIONER - PRO SE - PAUPER

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